IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.07.2006

CORAM:

THE HON'BLE MR. JUSTICE P. SATHASIVAM
AND
THE HON'BLE MR. JUSTICE V. DHANAPALAN

WRIT APPEAL No.532 of 2002

1. V.S. Babu
2. Mrs. Suyambukaniammal .. Appellants

vs.

1. The Government of Tamil Nadu
   Rep. By its Secretary & Commissioner
   Housing and Urban Development
   Department,
   Fort St. George, Chennai 9.

2. The Chairman & Managing Director
   Tamil Nadu Housing Board
   Nandanam, Chennai 35.

3. The Special Tahsildar/Land
   Acquisition Officer VII
   Tamil Nadu Housing Board
   Housing Buildings
   Nandanam, Chennai 35. .. Respondents

Writ Appeal filed under Clause 15 of the Letters of Patent against the order of the learned Judge Mr. Justice K. Govindarajan, dated 07.12.2001 made in WP.No.24069 of 2001.

For appellants : Mr. S. Packiaraj

For respondents : Mr. P. Wilson
Spl. Govt., Pleader for R.1

Mr.D.Veerasekaran for R.2&3

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JUDGMENT

(Judgement of the Court was delivered by P. SATHASIVAM,J.)

The writ appeal is directed against the order of the learned single Judge dated 07.12.2001 made in WP.No.24069 of 2001, in and by which the learned Judge, based on the conclusion of the Government since the land is required for public purpose and in such an event the

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Court cannot compel the Government to exempt the land, dismissed the writ petition.

2. Heard Mr. S. Packiaraj, learned counsel for the petitioner and Mr. P. Wilson, learned counsel for the first respondent as well as Mr. D. Veerasekaran, learned counsel for respondents 2 and 3.

3. It is not in dispute that their earlier writ petitions questioning the acquisition proceedings were dismissed by this Court and on direction by this Court, the appellants made a representation to the Government, praying for exemption from the purview of the acquisition. The Government, after getting report from the Requisitioning Body, viz., Tamil Nadu Housing Board, in their letter dated 24.01.2001, has intimated the petitioners that the land of the petitioners are required for implementation of the Housing Scheme by the Tamil Nadu Housing Board, after getting such report and considering the grievance of the petitioner, the Government rejected the request of the petitioner. Learned Judge, taking note of the decision of the Government and of the fact that the land of the petitioners are in need for implementation of the Scheme by the Tamil Nadu Housing Board, dismissed the writ petition. Inasmuch as the land is required for implementation of public purpose, as rightly observed by the learned Judge, the Court cannot compel the Government to exempt the lands. No doubt, the learned counsel for the petitioners / appellants argued that the Government exempted the lands of certain persons and the same standard has to be adopted in their case also. In the letter dated 25.07.2001, this aspect was considered by the Government and it further shows that since in those cases the land owners have constructed houses prior to issuance of Section 4(1) notification, certain lands have been exempted.

4. Mr. S. Packiaraj, learned counsel for the appellants by relying on the decision of the Apex Court in the case of Sube Singh vs. State of Haryana reported in 2001 (7) SCC 545 pointed out that refusal to grant exemption in so far as the petitioners/appellants cannot be sustained. We verified the factual details therein and the dictum laid down. In the light of the categorical information that after acquisition of the land from the petitioners, the same is required for implementation of the Scheme floated by the Tamil Nadu Housing Board and this aspect was fully considered before taking decision by the Government, we are of the view that the said decision is not applicable to the case on hand.

5. In this regard, learned Special Government Pleader has brought to our notice the decision of the Supreme Court in the case of Chandigarh Administration vs. Jagjit Singh reported in 1995 (1) SCC 745, wherein their Lordships have held that it would be desirable for the Court to exempt the case of the petitioner itself and take decision on that basis instead of relying on another case. Their Lordships have held that each case has to be decided on its own merits, factual, legal and in accordance with the relative legal principles. They further held that the orders and actions of the authorities cannot be equated to the judgments of the Supreme Court and High Courts nor can they be elevated to the level of the precedents, as understood in the judicial world.

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6. It is also useful to refer the decision of the Apex Court in the case of Government of Andhra Pradesh vs. Syed Akbar reported in 2004 (5) CTC 506, wherein their Lordships have held even if the land acquired is no longer required for public purpose, for which it was acquired, the same could not be disposed of without the sanction of the Government. The above decision makes it clear that the ultimate decision for granting exemption lies with the Government. When the Government takes a decision on the basis of relevant materials, there cannot be any interference by the Court.

7. It is further useful to refer the latest decision of the Supreme Court in the case of Anand Buttons Ltd., etc. vs. State of Haryana and others reported in 2005 (1) CTC 450, wherein their Lordships have held that the grant of exemption of lands from acquisition is a matter of policy and after considering all circumstances, the State Government has taken a decision regarding exemption of certain lands alone, Court will not interfere with the suggestion of Government or other competent authorities.

Under these circumstances, we do not find any valid ground for interference, on the other hand we are in entire agreement with the conclusion arrived at by the learned Judge. Hence, the appeal fails and the same is dismissed. No costs.

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

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To

1.The Secretary & Commissioner
Housing and Urban Development
Department,
Fort St. George, Chennai 9.

2.The Chairman & Managing Director
Tamil Nadu Housing Board
Nandanam, Chennai 35.

3.The Special Tahsildar/Land
Acquisition Officer VII
Tamil Nadu Housing Board
Housing Buildings
Nandanam, Chennai 35.

+1cc to Mr.D.Veerasekaran, Advocate Sr 29498
+1cc to Mr.S.Packiaraj, Advocate Sr 29223
+1cc to Govt. Pleader Sr 29407

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